

## Comment Letter AF009

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U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION  
CALIFORNIA DIVISION  
650 Capitol Mall, Suite 4-100  
Sacramento, CA, 95814  
August 30, 2004

IN REPLY REFER TO  
HDA-CA  
File # NEPA-CAHST  
Document # P50392

Mr. Allan Rutter, Administrator  
U. S. Department of Transportation  
Federal Railroad Administration  
M/S 20  
1120 Vermont Avenue, NW  
Washington, DC 20590

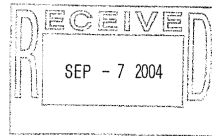
Attention: Mr. David Vallenstein

Dear Mr. Rutter:

The Federal Highway Administration (FHWA) has reviewed the Draft Program Environmental Impact Report/Environmental Impact Statement (DEIR/DEIS) for the California High Speed Train (HST) and offers the following comments and recommendations:

GENERAL COMMENTS:

1. The HST Program DEIR/DEIS blurs critical differences between the National Environmental Policy Act (NEPA) and the California Environmental Quality Act (CEQA) to such an extent that it is often difficult to evaluate the actual magnitude of the potential environmental impacts described in the document.
2. We recognize that the HST Program DEIR/DEIS is a program-level, Tier 1 environmental document that addresses the potential impacts of the proposed HST system at a broad, conceptual and planning level rather than at the more detailed project-specific level; however, there appears to be a predisposition towards using CEQA terminology as opposed to NEPA terminology. Differences between NEPA and CEQA are discussed throughout the document, but are never clearly discussed in one location.
3. Of particular concern is the use of the term "significant" throughout the document in a context more applicable to CEQA rather than to NEPA. Although 40 CFR Part 1500, the regulations issued by the Council on Environmental Quality (CEQ) to implement NEPA, defines significance as being a function of both context and intensity, we note that "significant" is defined in the HST Program DEIR/DEIS Glossary on Page 13-13 only in terms of CEQA usage. An explanation regarding the differences in the NEPA and CEQA definitions of the term is not provided until the Unavoidable Adverse Environmental Impacts chapter (see Page 7-1). Since impacts determined to be significant under CEQA may not be of sufficient magnitude to be determined significant under NEPA, the manner in which "significant" impacts are identified in the context of the HST Program DEIR/DEIS should be clearly and consistently articulated from the beginning of the document.



4. Although it may be entirely appropriate for this level of document to combine significance criteria based on federal and state regulations and guidelines for various resources rather than addressing them separately, it is not immediately clear in the HST Program DEIR/DEIS whether or not this hybrid approach is acceptable to the respective federal and state resource agencies involved. Although the methods of impact evaluation were developed with input from federal and state resource agencies, this is not disclosed until Page 3.0.2. The general approach of combining federal and state significance criteria should be introduced at the beginning of the document and the rationale used to determine the significance criteria for specific resources of concern should be addressed in their respective sections.

5. The maps and figures used in the HST Program DEIR/DEIS are of high quality and generally do a good job of quickly conveying environmental information. Many of the more noticeable problems with the graphics (such as illegibility) seem to result from the necessary reduction in scale made to accommodate the document format rather than technical inaccuracy. In some instances, however, the figures are misleading because they are labeled twice. For example, Figure 3.16-1, Bay Area Alignment Options and Major Section 4(f) and 6(f) Resources is also labeled Wetlands Bay Area to Merced Corridor. We suggest examination of all the figures to ensure clarity and accuracy prior to the release of the HST Program Final Environmental Impact Report/Final Environmental Impact Study (FEIR/FEIS).

SUMMARY:

The summary chapter of the HST Program DEIR/DEIS is clear, easy to read and provides a satisfactory overview. Table S.6-1 (Pages S.9 – S.14), Summary of Key Environmental Impacts and Benefits for System Alternatives, is particularly useful. The drawbacks to this section are that the summary lacks an explanation regarding the differences between NEPA and CEQA and that it does not explain that the significance criteria used for various resources examined in the document were determined by combining federal and state regulations and guidelines. As previously stated, the fact that the methods of impact evaluation were developed with input from federal and state resource agencies is not disclosed until Page 3.0.2.

PURPOSE AND NEED AND OBJECTIVES:

The Purpose and Need and Objectives chapter of the HST Program DEIR/DEIS adequately describes and explains the purpose and need for the proposed HST system. However, it is not clear on why it is considered necessary to include the "objectives" since the purpose and objectives should be identical.

ALTERNATIVES:

The Alternatives chapter of the HST Program DEIR/DEIS provides a thorough treatment of the topic. The discussion regarding how the alternatives were formulated and analyzed is particularly helpful, as is the Alternatives Summary. At a broad, conceptual level, this chapter works well; but the differences between an alternative, a design option and an alignment option could be explained more clearly.

## Comment Letter AF009 Continued

### AFFECTED ENVIRONMENT, ENVIRONMENTAL CONSEQUENCES, AND MITIGATION:

The Affected Environment, Environmental Consequences and Mitigation chapter is one of the more problematic portions of the HST Program DEIR/DEIS. While this chapter is well organized and easy to follow, the results of the analysis, as presented in the document, may still be too broad and speculative to enable the resource agencies to make an informed decision. Comments are provided only for those sections of the Affected Environment, Environmental Consequences and Mitigation chapter where it appears that either the information provided or the level of analysis may be inadequate.

#### 3.12 Cultural and Paleontological Resources:

1. It would be preferable to discuss cultural resources and paleontological resources in separate sections. The nature of these resources, the methodology used to evaluate them and the laws that relate to them are very different. Including cultural resources and paleontological resources in the same section weakens the credibility of the discussion.
2. The federal and state regulatory requirements related to cultural resources are not explained very well. In particular, the National Historic Preservation Act (NHPA) and 36 CFR 800, the regulations implementing the NHPA should be explained in a clear and concise manner.
3. We suggest moving this section closer to 3.16 Section 4(f) and 6(f) Resources (Public Parks and Recreation).
4. NEPA, CEQA and NHPA terminology is often mixed and/or used incorrectly, particularly the words "significant" and "adverse."
5. The Antiquities Act of 1906 applies only to federal lands.
6. On Page 3.13.3, the first paragraph under B., Method of Evaluation of Impacts, Archaeological Sites and Traditional Cultural Properties, states that Federal Railroad Administration (FRA) and the Authority requested the State Historic Preservation Officer (SHPO) to designate an appropriate area of potential effect. Under 36 CFR 800, the SHPO does not "designate an appropriate area of potential effect" rather, the area of potential effect is determined by the agency official in consultation with the SHPO.
7. Coordination and consultation with Native American tribes/groups should be discussed in a separate section. The specific Native American tribes/groups involved in the consultation should be identified and indicate whether or not they are federally recognized.
8. The methodology used to evaluate impacts to cultural resources is not particularly robust or readily verifiable. Although this is understandable in the absence of actual fieldwork and the conceptual nature of the overall environmental analysis, the speculative nature of the chosen methodology should be clearly disclosed.

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9. The culture history discussions throughout this section are rather generic and would benefit from thoughtful and judicious editing.

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10. Although the use of a phased approach is mentioned on Page 3.13.3 B., Method of Evaluation of Impacts, Archaeological Sites and Traditional Cultural Properties, there is no follow-through discussion.

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11. The discussion provided under 3.12.6, Subsequent Analysis (Page 3.12.27) is very weak. The requirements for the NHPA and requirements under CEQA should be addressed separately, even if the CEQA requirements are ultimately derived from the NHPA requirements. As currently presented, the steps involved in any subsequent analysis seem to have been given very little thought. We suggest a thoughtful revision of this discussion, using the appropriate terminology provided in 36 CFR 800.

AF009-20

#### 3.14 Hydrology and Water Resources:

This section should be more fully integrated with the following section, 3.15 Biological Resources and Wetlands.

AF009-21

#### 3.15 Biological Resources and Wetlands:

1. Biological resources and wetlands are presented together, but there is little or no attempt to synthesize the information. It is also unclear why wetlands are discussed in this section rather than in 3.15, Hydrology and Water Resources.
2. Geospatial data analyzed at a broad, regional level has produced laundry lists of "sensitive" species that are difficult to interpret. At best, the current analysis merely points out the dangers inherent in using a presence/absence methodology over large geographic areas.
3. Table 3.15.1, Summary of Potential Impacts on Biological Resources for Modal and HST Alternatives, provides a good "snapshot" of potential impacts but it is unclear how the reader is supposed to interpret this information.
4. An ecosystem analysis, performed at the watershed level, might be a more useful approach to inform the decision-making process and should be considered for future analyses.
5. Using generic terms like "sensitive species" and "special status species" is not very helpful in conveying the true sensitivity of a given area and could lead to misinterpretations regarding the true sensitivity of an area. The reader should not have to guess which species are threatened or endangered under the federal Endangered Species Act and which species are threatened or endangered under the California Endangered Species Act.

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**Comment Letter AF009 Continued**

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6. Note that since the HST Alternative (and the Modal Alternative) are likely to include infrastructures, such as bridges and trestles that could necessitate for pile driving, there may be to be certain areas where barotrauma may be of concern. Consider identifying and discussing these areas in the FEIR/FEIS.

3.16 Section 4(f) and 6(f) Resources (Public Parks and Recreation):

1. We suggest removing "Public Parks and Recreation" from the heading of this section since Section 4(f) resources include historic sites and waterfowl refuges, as well as public parks and recreational areas.
2. It is not always clear what sort of information 3.16 Section 4(f) and 6(f) Resources (Public Parks and Recreation) is trying to convey. We suggest moving this section closer to 3.12 Cultural and Paleontological Resources, in order to better synthesize related information.
3. Regulatory Requirements and Methods of Evaluation, Regulatory Requirements, (Page 3.16-1). Although the DEIR/DEIS is a joint document, Section 4(f) and Section 6(f) are federal considerations. There is no need to compare Section 4(f) and Section 6(f) with state laws.
4. Regulatory Requirements and Methods of Evaluation, Method of Evaluation of Impacts, (Page 3.16-2). The methodology employed to determine potential direct and proximity impacts seems speculative at best. Of particular concern is the manner in which the High, Potential Direct Impact (0-150 ft.) and the Medium, Proximal Impact (150-450 ft.) qualitative rankings were arrived at.
5. Table 3.16-2, Number of Potential High Impacts on Section 4(f) and 6(f) Resources by Regions and Alternatives (Page 3.16-6) is of limited utility.

3.17 Cumulative Effects:

1. The methodology used to determine cumulative effects is unclear. We suggest referring to the Council on Environmental Quality's "Considering Cumulative Effects Under the National Environmental Policy Act" (1997).
2. While required NEPA analysis is mentioned, it appears that cumulative effects were analyzed using CEQA guidelines (see second and third paragraphs under 3.17.3, Introduction to Cumulative Impacts, Page 3.17.1). The reason for using this approach should be explained and the level of analysis should be reconsidered.

HIGH-SPEED TRAIN ALIGNMENTS COMPARISON:

Like the alternatives chapter, the High Speed Train Alignments Comparison chapter provides a full, but not exhaustive, treatment of its topic. At a broad, conceptual level, this chapter works well, but the differences between an alternative, a design option, and an alignment option could be explained more clearly.

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UNAVOIDABLE ADVERSE ENVIRONMENTAL IMPACTS:

The first paragraph of this chapter (see Page 7-1) states that the chapter "...describes any potentially significant environmental effects that may be unavoidable if the proposed High-Speed Train (HST) Alternative is selected for implementation and any unavoidable adverse impacts of the alternatives, as required by CEQA and NEPA, respectively." The meaning of this paragraph is open to interpretation and, unfortunately, this initial paragraph typifies the entire chapter. Although NEPA is invoked, it appears that most of the chapter is intended for purposes of satisfying CEQA requirements. If this is the case, it should be clarified.

AF009-36

Thank you for the opportunity to review the HST Program DEIR/DEIS. If you have any questions or concerns, please feel free to call Stephanie Stoermer, Environmental Coordinator, at (916) 498-5057 or via e-mail at [stephanie.stoermer@fhwa.dot.gov](mailto:stephanie.stoermer@fhwa.dot.gov).

Sincerely,



For  
Gene K. Fong  
Division Administrator

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**Response to Comments of Gene K. Fong, Division Administrator – U.S. Department of Transportation, Federal Highway Administration, September 7, 2004 (Letter AF009)**

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**AF009-1**

In general, the content of an EIS prepared under NEPA differs very little from an EIR prepared under CEQA. Both documents must include a description of the proposed activity, the environmental setting, and analysis of significant environmental impacts (direct, indirect and cumulative), and a discussion of mitigation measures to reduce or avoid those impacts. (40 C.F.R. secs. 1502.11-1502.25) "Mitigation" is defined exactly the same way under NEPA and CEQA. The key difference is the treatment of alternatives, where NEPA requires a more rigorous evaluation and comparison of all alternatives that is substantially equal to the proposed action evaluation. Under CEQA the comparative merits of the alternatives must be evaluated, however, in less detail than the proposed project. Another key difference is that CEQA requires a separate analysis of growth inducing impacts and mitigation, but does not require an analysis of economic or social effects of the project or alternatives, where NEPA does. Thirdly, CEQA requires avoidance or mitigation for significant impacts if feasible, where NEPA requirements for discussion of mitigation measures are more general and the justification for mitigation decisions appear in the record of decision. This document is intended to satisfy the content requirements of both NEPA and CEQA, and all of these topics are addressed in the document.

**AF009-2**

The document uses both NEPA and CEQA terms where appropriate. Each environmental topic describes and defines the method of analysis, including any thresholds used for determining the significance of a potential impact. Please also see response to Comment AF009-1.

**AF009-3**

To describe the relationship between context and intensity, in general, the more sensitive the context (i.e., the specific resource in the project area, or area of potential impact) the less intense an impact needs to be in order to be considered significant. This relationship is described in the method of evaluation of impacts in each of the topic areas. Discussions of the differences in magnitude of potential impacts for this Program Level Tier I document generally err on the conservative side for the broad comparison of alternative corridors.

**AF009-4**

The responses to the first two general comments, above, will be added as a brief introduction to Section 3.0. The rationale used to determine the significance criteria for specific resource topics are already included under 'methods used for analysis' in each section of Chapter 3.0.

**AF009-5**

All figures in the Final Program EIR/EIS have been examined for clarity and accuracy. The title for Table 3.16-1 has been revised.

**AF009-6**

The summary section presents information appropriate to each environmental topic to distinguish key differences between alternative corridors that describes the relationship between context and intensity of potential impacts. The method of analysis was developed in consultation with cooperating and responsible agencies who will use this information in selecting a preferred corridor for HSR.

**AF009-7**

Acknowledged. The Draft Program EIR/EIS states, "CEQA requires that an EIR identify the project sponsor's objectives, which are similar to the purpose required by NEPA (CEQA Guidelines, C.C.R., Title 14, & 15124 [b]). The objectives provide benchmarks for selecting a reasonable range of alternatives for analysis, as required by CEQA." (page 1-3)

**AF009-8**

Acknowledged. The terms "Alternative", "design option" and "alignment option" are defined in Section 2.1 and described in more detail in subsequent sections of Chapter 2 of the Final EIR/EIS.

**AF009-9**

See responses which follow regarding to specific issues raised in the letter, identified as AF009-10 through AF009-34.

**AF009-10**

The subheading headings provided in Section 3.12 separate these major resource types (Cultural and Paleontological). The Cultural resources are further subdivided into subheadings for the historical built environment and the archeological resource types. The overall organization of the document remains the same.

**AF009-11**

Section 3.12 of the PEIR/S has been edited and redrafted consistent with this comment.

**AF009-12**

Moving Section 3.12 closer to the sections regarding 4(f) and 6(f) would require major document reorganization and renumbering and cannot be readily accomplished.

**AF009-13**

Section 3.12 of the PEIR/S has been edited and revised. Revisions also considered other terms such as the use of "impacts" and "effects," as well as "resources" and "properties."

**AF009-14**

The Draft PEIR/S and Final PEIR/S indicate "on federal land" in two locations in the Paleontology Section, where this act is referenced.

**AF009-15**

Section 3.12.3 has been edited consistent with this comment.

**AF009-16**

New subsections have been created in the PEIR/S. A header has been added to 3.12.1.b called "Traditional Cultural Properties and Native American Consultations" to discuss methods. A header has been added to 3.12.2.c called "Traditional Cultural Properties" to present results.

**AF009-17**

This section of the PEIR/S has been edited per this comment.

**AF009-18**

The section has been edited. The section now provides a more consistent approach to the history of each region within a general context commensurate in detail to the nature of this sensitivity study.

**AF009-19**

Section 3.12.16 has been edited to discuss when phased approach is appropriate and allowed under Section 106 of the National Historic Preservation Act.

**AF009-20**

Section 3.12.6 has been edited and augmented. Requirements are addressed separately for CEQA and NHPA, and terminology in 36 CFR 800 has been integrated into the text.

**AF009-21**

The Co-lead agencies understand the relationship between water resources and biological resources and wetlands. Although for purposes of organizing the information in the PEIR/S there are two separate sections on Hydrology and Water Resources and Biological Resources and Wetlands, it is recognized that the two are intimately related. Development of impact analyses and mitigation measures at a project level will reflect this relationship.

**AF009-22**

Please refer to response to Comment AF009-21. Wetlands are discussed in the section on biological resources because of the importance of wetlands as wildlife habitat.

**AF009-23**

The Co-lead agencies have produced the environmental analyses to enable a reasonable comparison of project alternatives and HST alignments and their respective potential for environmental effects. While this overall approach tends to generalize some of the impacts, it does provide information critical to making overall alternative and alignment decisions leading to subsequent more detailed analyses in project-level, Tier 2 review. Please see standard response 3.15.2 for a discussion of level of detail in the PEIR/S and standard response 3.15.13 for a discussion of the overall purposes of the PEIR/S and the planned project-level, Tier 2 evaluation.

**AF009-24**

As noted in standard response 3.15.13, the data in Table 3.15.1 allow for a reasonable comparison of project alternatives and HST alignments and their respective potential for environmental effects. This approach provides information critical to making overall

alternative and alignment decisions leading to subsequent more detailed analyses in the project-level, Tier 2 environmental review. Please also see standard response 3.15.7 regarding the use of wide "envelopes" for this programmatic evaluation.

**AF009-25**

Consistent with this comment, the Co-lead agencies anticipate reviewing ecosystem impacts in site-specific detail and at the watershed level in the project-level, Tier 2 analyses.

**AF009-26**

A list of potentially affected threatened and endangered species and their federal and state individual status are provided in each of the regional technical studies that were used as the basis for the PEIR/S. The technical studies were not circulated as appendices to the Draft PEIR/S given their size and detailed technical content. The detailed content of the studies was rather summarized and synthesized into their respective topic area sections of the Draft PEIR/S. The technical studies (and screening reports) for each of the five HST corridors were made available on the California High Speed Rail Authority website

([http://www.cahighspeedrail.ca.gov/eir/regional\\_studies/default.asp](http://www.cahighspeedrail.ca.gov/eir/regional_studies/default.asp)), and the Final PEIR/S incorporates these technical studies (and screening reports) by reference. Use of terms such as "sensitive species" and "special status species" reflects the fact that the PEIR/S summarized and consolidated information in the technical studies. Use of these terms does not diminish the adequacy of the information provided in the PEIR/S, which enables general evaluation and comparison of major project alternatives and general HST alignments. More detailed evaluations of threatened vs. endangered, for example, will occur during the project-level, Tier 2, evaluations.



**AF009-27**

There may be potential for localized wildlife barotrauma associated with the construction of the proposed HSR project. This issue would be addressed during subsequent project level environmental review, based on more precise information regarding location and design of the facilities proposed (e.g., bridge pier locations and foundation design options) and field data for wildlife species.

**AF009-28**

Section 3.16 of the Final Program EIR/EIS has been renamed "Section 4(f) and 6(f) Resources (Public Parks and Recreation, Waterfowl Refuges and Historic Sites)."

**AF009-29**

Section 3.16 will remain in the same sequence in the Final Program EIR/EIS, due to its relationship to multiple environmental areas.

**AF009-30**

While this section is titled Section 4(f) and 6(f) resources, which is a federal requirement, it also covers possible effects on state, regional and local parks and addresses other related state laws.

**AF009-31**

This methodology was developed to identify and highlight areas of potential impact to be avoided and/or considered further during subsequent project level environmental review. If this proposed project is advanced to project level of environmental review, preliminary engineering will be prepared allowing for a greater precision in the location of the proposed HST facilities and their associated right-of-way (ROW) requirements. The project level review will provide a more detailed analysis of the 4(f) and 6(f) potential direct and indirect effects. The greater engineering detail associated with the project level environmental analysis will allow the Authority to further investigate ways to avoid, minimize and mitigate potential effects to 4(f) and 6(f) resources.

The Authority followed FRA guidance when the analysis was initiated that specified a screening distance of 900 feet for new rail corridors in rural areas. The Authority and FRA believe that this screening distance of 900 feet is sufficient to estimate the number and extent of potentially noise affected parks and recreation areas at a program level of analysis. It is unlikely that potential indirect impacts would extend beyond this distance; however, subsequent project specific studies would consider potential noise related impacts related to specific sensitive receptors based on specific alignment and operating characteristics, as the proposed HST facilities and operation are further defined. The purpose of the screening analysis undertaken is to provide a measure of noise-sensitive receivers that are close enough to the proposed alignments for noise impact to be possible. Specific HST noise levels will be determined during the project level noise assessment.

**AF009-32**

Acknowledged. A new table with all the potentially affected parks, recreation areas and waterfowl refuges and their relative proximity to the HST alignment options has been added to the Appendix 3.16-A.

**AF009-33**

See Standard Response 3.17.1.

**AF009-34**

See Standard Response 3.17.1.

**AF009-35**

The High-Speed Train Alignments Comparison chapter is intended to provide a summary of the key differences between alignment and station options. Alternatives are systemwide improvement scenarios (No Project, Modal, and HST). Alignment options are specific HST alignments that were considered and evaluated. Design options represent specific design issues (e.g., a key overcrossing or

undercrossing, or section of trench/aerial) related to an alignment option.

**AF009-36**

Specific NEPA language will be added to the first paragraph of Section 7.0, consistent with CEQ's NEPA regulations Section 1502.16, "an adverse environmental effect which cannot be avoided should the proposal be implemented" and any "irreversible or irretrievable commitments of resources which would be involved in the proposal should it be implemented."



## Comment Letter AF010



ER 04/91

Mr. David Valenstein  
Federal Railroad Administration  
1120 Vermont Avenue, MS-20  
Washington, DC 20590

Dear Mr. Valenstein:

The Department of the Interior has reviewed the Draft Program Environmental Impact Report and Environmental Impact Statement (DPEIR/EIS) for the Proposed **California High-Speed Train System**, extending from Sacramento and the San Francisco Bay Area through the Central Valley to Los Angeles and San Diego, California. We have the following comments.

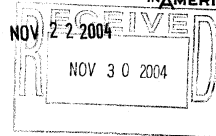
### GENERAL COMMENTS

The Department is concerned that the DPEIR/EIS is written in such general terms that it is difficult to reliably assess the impacts of the proposed action or to compare effects among alternatives. The document presents little or no difference between the No Action and Modal Alternatives. Please include more specific information to improve the analysis of impacts in the final EIR/EIS. This will allow the Department to assess and compare impacts of the alternatives in the final EIR/EIS.

### Best Available Information

We are also concerned that many of the Modal Alternatives are not based on the most current information. A number of projects listed as Modal Alternatives are currently in the planning stage and are often more extensive than presented in the DPEIR/EIS. For example, the widening of I-5 between Oceanside and the I-5/805 split is currently in the NEPA/404 integration process with the resource agencies. The preferred alternative currently proposed by the California Department of Transportation (Caltrans) and the San Diego Association of Governments (SANDAG) includes five general-purpose lanes in each direction and two High-Occupancy-Vehicle (HOV) lanes for a total of fourteen lanes. This is significantly different than the Modal Alternative presented in the DPEIR/EIS, which includes the existing eight lanes (four in each direction) and two additional lanes (one in each direction) for a total of ten lanes. Please update the discussion and analysis of Modal Alternatives in the final EIR/EIS so that the impacts can be better understood and all alternatives can be meaningfully compared.

AF010



### Endangered Species Act (ESA)

There are a large number of Departmental Habitat Conservation Plans (HCPs), fashioned through the FWS, under section 10(a)(B) of the ESA (1969) as amended, which are in place or will be in place in the near future for southern California but not mentioned in the DPEIR/EIS. The implementation and future success of the following HCPs may be impacted by the proposed HST system: City and County of San Diego Multiple Species Conservation Program (MSCP); North San Diego Coastal Cities Multiple Habitat Conservation Program (MHCP); North San Diego County MSCP Subarea Plan; Western Riverside Multiple Species Habitat Conservation Program (MSHCP); Southern Orange County Natural Community Conservation Program (NCCP)/HCP; Tejon Ranch HCP; and Central/Coastal Orange County NCCP/HCP. Please include an assessment of impacts to implementation and potential success of these and other ongoing HCPs in the final EIR/EIS.

The DPEIR/EIS does not evaluate potential impacts to designated and/or proposed critical habitat for federally listed species including: the Quino checkerspot butterfly (*Euphydryas editha quino*), bay checkerspot butterfly (*Euphydryas editha bayensis*), tidewater goby (*Eucyclogobius newberryi*), California condor (*Gymnogyps californianus*), least Bell's vireo (*Vireo bellii pusillus*), coastal California gnatcatcher (*Polioptila californica californica*), San Bernardino kangaroo rat (*Dipodomys merriami parvus*), Alameda whipsnake (*Masticophis lateralis euryxanthus*), California red-legged frog (*Rana aurora draytonii*), vernal pool tadpole shrimp (*Lepidurus packardii*), vernal pool fairy shrimp (*Branchinecta lynchi*), and San Diego fairy shrimp (*Branchinecta sandiegonensis*). A number of federally listed species [i.e., arroyo toad (*Bufo californicus*), California tiger salamander (*Ambystoma californiense*), Riverside fairy shrimp (*Streptocephalus woottoni*), southwestern willow flycatcher (*Empidonax traillii eximius*), Buena Vista Lake shrew (*Sorex ornatus relictus*) and Santa Ana sucker (*Catostomus santaanae*)] will have proposed and likely final critical habitat designated in the next few years, which will require re-analysis of potential impacts. The attached maps (Figures 1, 2, and 3) show areas of critical habitat with the potential to be impacted by the proposed HST. Please address potential impacts to designated and proposed critical habitat for federally listed species (above) in the effects and/or cumulative effects section(s) of the final EIR/EIS.

The DPEIR/EIS is unclear as to how, or whether, the Federal Railroad Administration (FRA) and the U.S. Corps of Engineers (Corps) will satisfy the requirements of Section 7 of the ESA. We recommend that the FRA prepare and submit a Biological Assessment (BA) for consultation on this proposal to the FWS as early as possible in the environmental planning/analysis process. This would provide the FRA the opportunity to better and more efficiently integrate their responsibilities under Section 7(a)(1) of the ESA at the program level. Within the action area (all areas to be affected indirectly or directly by the proposed action): 1) identify the conservation needs of each listed species with the potential to be impacted by the proposal; 2) identify the threats to

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## Comment Letter AF010 Continued

each listed species' conservation, both range-wide and within the action area; 3) identify species conservation or management units and the threats affecting those units; 4) identify species' conservation goals framed within the context of the HST program; and 5) develop conservation/management unit strategies for implementing future (project-level) activities.

### Fish and Wildlife Coordination Act (FWCA)

Pursuant to the FWCA, the Department (via the FWS) often advises the Corps on projects involving dredge and fill activities in "waters of the United States." Following the HST programmatic effort (i.e., during development of the individual HST project elements), it is likely that portions of the project affecting wetlands and riparian areas will require Corps permits pursuant to Section 404 of the Clean Water Act (CWA) and/or Section 10 of the Rivers and Harbors Act (RHA) of 1899. Please refer to Appendix 1 for a list of criteria for dredge and fill activities used by the FWS. The FWS has recommended that you include these criteria in the preferred alternative of the final EIR/EIS and use these criteria when selecting and designing HST project elements and locations to avoid or minimize wetland, riparian, fish/wildlife, and water quality impacts. Doing so would not only enhance coordination under the FWCA, but would be prudent given the absence of more specific information on the exact locations and overall extent of dredge and fill activities in the DPEIR/EIS.

### Grasslands Ecological Area and Wetlands

The DPEIR/EIS makes no mention of the Grasslands Ecological Area (Grasslands), a 160,000-acre area located roughly in a triangle with the towns of Dos Palos, Los Banos and Gustine along the base of the triangle and Merced at the apex of the triangle. It is recognized for its diverse habitats and importance to a variety of wetland species. The habitat types present at Grasslands include seasonally flooded wetlands, semi-permanent marsh, woody riparian habitat, wet meadows, vernal pools, native uplands, grasslands, and native brush lands. Hundreds of thousands of shorebirds migrate through the area. Grasslands was officially recognized in 1991 by the Western Hemisphere Shorebird Reserve Network as one of only 15 internationally significant shorebird habitats and was recognized in 1999 by the American Bird Conservancy as a Globally Important Bird Area. In addition, it is currently being nominated as a Wetland of International Importance under the Ramsar Convention due to its importance to a variety of wildlife, including several rare and endangered species, its critical role as wintering habitat for Pacific Flyway waterfowl, and its status as the largest remaining block of wetlands in what was once a vast Central Valley ecosystem. Please be sure to recognize the importance of the Grasslands in the final EIR/EIS and, if possible, include alternatives that will fully avoid or minimize impacts to the Grasslands (please refer to Appendix 2 for more information on this critical ecological area).

### Cumulative Impacts Analyses

The DPEIR/EIS does not fully address the growth inducement/accommodation that could result from the HST. Please address the potential inducement/accommodation of new development along the HST corridors in the effects and/or cumulative effects section(s) of the final EIR/EIS. Please discuss the possibility that commute time would not provide a strong disincentive for relocation to outlying areas, and that local or overall development demands would increase.

The DPEIR/EIS does not address current efforts to expand existing, or construct new, airport facilities. Please address current and planned airport facility expansion in the cumulative effects section of the final EIR/EIS. Examples include current planning efforts for: (a) expansion of Los Angeles International Airport (LAX); (b) expansion of Lindberg Field and/or construction of a new airport in the San Diego region; and (c) expansion of the San Francisco International Airport (SFO).

### SPECIFIC COMMENTS

**Page S-5:** Please evaluate the effects of growth inducement/accommodation on biological resources in the final EIR/EIS, particularly as implied for the Northern and Southern Mountain Crossing areas, and for small communities in the San Joaquin Valley. The DPEIR/EIS states that "the Antelope Valley SR-58/Soledad Canyon could provide superior connectivity and accessibility to the Antelope Valley and would have a higher potential for serving long-distance commuters to Los Angeles." We are concerned that by encouraging long-distance commuting, the HST system could be facilitating urban sprawl and the negative environmental impacts associated with it.

**Table S-5-1:** This table predicts minimal population growth attributable to the proposed HST system. However, potential growth of smaller rural communities along the route (e.g., Gilroy, Merced, Los Banos, Modesto, Hanford and Visalia) is not predicted. Please include estimates of potential growth in the numerous smaller communities along the proposed HST corridor, and relate that growth to potential impacts to species and habitats identified in maps (Figures 1, 2, and 3) for the final EIR/EIS. **[Figures 1, 2, and 3 are oversized maps and are being sent under separate cover.]**

**Page S-7:** Table S-6.1 also states that the HST will "result in denser development...on less land," and "controlled growth around stations, urban in-fill; compatible with transit-first policies." We believe this model may be appropriate for major metropolitan areas, but it does not fit well for smaller towns. Table S-6.1 indicates that the Modal Alternative would encourage urban sprawl throughout the Central Valley, and the HST system only around Merced. Please discuss the likelihood of impacts from suburban sprawl around the proposed station locations in the Final EIR/EIS.

## Comment Letter AF010 Continued

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Page S-15: The third paragraph suggests that growth rates for given areas will be determined by the HST alternative approved for construction. However, the DPEIR/EIS does not address potential cumulative growth inducement due to operation of the other Modal Alternative projects. Please include an assessment of the effects of the other Modal Alternative projects that will occur regardless of the status of the HST in the final EIR/EIS.

AF010-13

### Purpose and Need

Page 1-6: In the Purpose and Need section is a discussion about increasing air travel from 1992 to the present. However, since September 11, 2001, air travel has dropped off significantly. Has this trend reversed completely, i.e., has air travel increased over pre-September 11 travel? What date does the term "present" represent? Please clarify this discussion in the final EIR/EIS.

AF010-14

Pages 1-6&7: It is not immediately evident in the DPEIR/EIS that there will be a future need for increased infrastructure to support the HST ridership. How will rail travelers access and utilize the new rail system without a planned increase in local infrastructure? Please identify and evaluate impacts associated with necessary infrastructure and supporting mass transit system for the HST in the final EIR/EIS.

AF010-15

Pages 1-6&7: The Department understands that there are current, ongoing consultations with the regulatory agencies on expansion of LAX. Based on those consultations, it appears that the current planning efforts for LAX are not identified in this DPEIR/EIS. As such, many of the assumptions in the DPEIR/EIS may be based on older data. Please update the final EIR/EIS with more recent information on current plans, including likely consultation outcomes, for LAX.

AF010-16

### Alternatives

The Department believes the range of alternatives in the DPEIR/EIS is not wide enough to encompass the conflicting resource issues, planning complexities, and wide variety of environmental impacts and concerns raised during scoping (see specific technical, procedural and biological comments below). The Department recommends the development and analysis of a Lower Impact Alternative using alternative transport options of train, air, and highway improvements. This Alternative would not only better focus transportation efforts on the areas of greatest need, it would eliminate costly and unnecessary expenses (such as hundreds of miles of rail), move people off the highway system, and reduce the negative environmental impacts which are predicted to occur otherwise across the California landscape.

AF010-17

Page 2-16: If air travel trips greater than 150 miles in length would be competitive, we suggest this type of travel be included in the mix of the Low Impact Alternative.

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Page 2-18: The Department supports the concept of constructing aerial lanes over existing lanes whenever feasible to reduce impacts to the natural environment.

AF010-18

Table 2.5-1: The highway improvements presented are not based on the best available information. Many of the projects in this table are currently being planned as much wider thoroughfares. In addition, more recent regional transportation plans (RTPs) and NEPA/CEQA documents discuss larger projects than are presented in the table (e.g., SANDAG's 2030 Mobility Plan, Southern California Association of Government's Destination 2030). Please include all projects currently in the planning phase in the No Project Alternative for the final EIR/EIS.

AF010-19

Table 2.5-2: The Aviation Improvements presented in this table are not consistent with local planning efforts in San Diego, Orange, Los Angeles, Riverside, and Imperial Counties. Please update the final EIR/EIS to include local planning efforts.

Page 2-25: Please clarify in the final EIR/EIS whether the number of trains per day is in each direction or total trains on the track.

AF010-20

Page 2-35: The Department believes that further analysis of the Altamont Pass alignment alternative from the Bay Area to the Central Valley is warranted; however, serious environmental concerns are likely for a proposed bridge crossing of South San Francisco Bay. Please evaluate an alternative that would traverse the Diablo Range at the Altamont Pass, loop south to San Jose, then continue north to San Francisco, avoid a bay crossing, or one which tunnels under the bay. We suggest the existing (or an improved) Bay Area Rapid Transit (BART) system and other mass transit could easily serve the Oakland area from the stop in Hayward.

This paragraph suggests that the Altamont Pass alignment was eliminated because it does not avoid or substantially reduce potential environmental impacts. However, the impacts of the Altamont Pass alignment (if combined with no bay crossing or a tunneled bay crossing) would be lower, while the impacts associated with all of the proposed Northern Mountain crossings would be higher overall and would require substantially more mitigation. We recommend you include a more in-depth analysis of the relative environmental impacts of each of the considered and proposed alignments in the final EIR/EIS. Also, if possible, please reconsider the Altamont Pass alignment.

AF010-21

Page 2-38: The third paragraph states that an Altamont Pass alignment would have higher potential impacts on threatened and endangered species, but fewer impacts on major water crossings, parks and recreation, and visual impacts. The other proposed Northern Mountain crossings are in undeveloped areas, and would have significant impacts on threatened and endangered species. An Altamont Pass alignment with no bay crossing (or tunneled bay crossing) would result in a substantial reduction over the environmental impacts associated with the other proposed crossings (Diablo Range

## Comment Letter AF010 Continued

direct and Pacheco Pass alignments), while still providing for HST service to East Bay communities, the San Francisco peninsula, and San Jose.

Page 2-40: Please edit the statement in the second bullet from top to reflect that the lagoons are also home to a number of resident avian species that are protected under State and Federal law.

Page 2-51: The California red-legged frog and the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) are known to inhabit areas near SFO and could be potentially impacted by the San Francisco-San Jose alignment along the Caltrain Corridor. In the area of San Bruno Mountain, listed butterfly species could potentially be impacted, including the calippe silverspot butterfly (*Speyeria calippe calippe*), the mission blue butterfly (*Icaricia icarioides missionensis*), and the San Bruno elfin butterfly (*Callophrys mossii bayensis*). These potential impacts should be discussed in the final EIR/EIS.

Page 2-52: The proposed Hayward/Niles/Mulford alignment would result in significant environmental impacts to the San Francisco Bay National Wildlife Refuge (SFBNWR). Construction and operation of the HST system along this alignment would result in substantial impacts to existing tidal marshes/salt ponds as well as areas being considered for tidal marsh restoration. The full extent of these impacts cannot be accurately determined without more specific project information for this area coupled with a better understanding of future tidal marsh restoration efforts that will be undertaken in this area. Additionally, along the Mulford Line on Station Island is the ghost town of Drawbridge, which is an important cultural resource that would be impacted by this proposed alignment. For all of the above reasons, we suggest the Hayward/Niles/Mulford alignment be removed from further consideration and the Hayward/I-880 alignment be used instead.

Page 2-53: The Northern Mountain crossings, as proposed, are at odds with the Purpose and Need Statement on page S-2, which states that the HST system "should maximize the use of existing transportation corridors and rights-of-way..." The rejected Altamont Pass alignment alternative is along an existing transportation corridor, but the Diablo Range direct alternative and the Pacheco Pass alignment alternatives do not follow existing transportation corridors or rights-of-way, and will therefore have unnecessary additional environmental impacts. Please explain in the final EIR/EIS how you projected that the Pacheco Pass alignment would have 1.1 million more intercity riders per year than the Altamont Pass alignment. Please consider and evaluate, in the final EIR/EIS, potential use of the Altamont Pass alignment by the large and rapidly growing population centers at Stockton and Tracy. The projected 1.1 million difference between these two routes is only two-percent of the estimated total ridership of 68 million and could be within the margin of error for this projection. Additionally, the stated reason for rejection of the Altamont Pass alignment is the three-way split at Newark/Fremont; however, this may provide opportunities for an improved intra-Bay

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Area transportation system, which would have lower overall environmental impacts (see Page 2-35 comments).

Page 2-53: The potential impacts to wildlife, listed species, and undeveloped lands (which provide very important wildlife habitat in the region) in the Diablo Range would be substantial and compensating for these impacts would be extremely difficult. Critical habitat for the bay checkerspot butterfly and proposed critical habitat for the California red-legged frog could be adversely affected or destroyed. Recovery efforts for both of these species may be compromised by these losses, particularly for the bay checkerspot butterfly, which has a very limited distribution. The loss of any serpentine habitat could be a substantial impact. Most direct impacts to serpentine habitat could be avoided by completely tunneling under areas containing serpentine habitat and by placing tunnel entrances/exits outside of this habitat type. Please include an alternative that completely avoids direct impacts to critical habitats for these two species.

Page 2-53: The portion of the Diablo Range to be impacted by these proposed crossings has been recognized for its important natural resources. The Nature Conservancy owns fee title and easements on 61,000 acres in this area, as part of its Mount Hamilton Project. The FWS has helped to fund that effort, and has identified the same area as a potential addition to the National Wildlife Refuge System. Please describe impacts of the Diablo Range direct alignment in the final EIR/EIS, with these concerns and conservation efforts in mind.

Page 2-81: The DPEIR/EIS does not clearly and accurately address wildlife issues along the I-215/I-15 corridor, from Riverside to San Diego. This corridor has numerous habitat types occupied by a variety of species covered by the western Riverside MSHCP, the in-progress North San Diego County MHCP, and the existing San Diego County and City of San Diego MSCPs. In particular, and as described in each of these HCPs, there are a number of core habitat areas, linkages and constrained linkages, and a variety of endangered species using the corridor. There are also complex planning issues that have not been addressed by the DPEIR/EIS. Please include in the final EIR/EIS a discussion of how the HST planning effort relates to the Federal Highway Administration priority streamlining projects in the Community and Environmental Transportation Acceptability Process (CETAP) for Western Riverside County. For example, CETAP projects we are aware of include major improvements along Winchester Road and the widening of I-15 and I-215.

Page 2-82: We are concerned with the alignment connecting the HST from the I-15 corridor to the LOSSAN corridor through Carroll Canyon open space within the city of San Diego's MSCP preserve. The Mira Mesa alternative avoids the Carroll Canyon open space and would be consistent with the City of San Diego MSCP. In addition, the alignment where Carroll Canyon and Mira Mesa routes combine should be designed to avoid impacts to endangered species habitat (coastal California gnatcatcher, vernal pool species) along the northern border of Miramar.

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## Comment Letter AF010 Continued

Page 2-82: The southern border of Qualcomm Stadium is the San Diego River, which is occupied by numerous least Bell's vireo. Therefore, we recommend that the HST terminate north of the river and all project construction impacts at the Stadium occur within existing disturbed and developed areas. Seasonal restrictions on construction and maintenance activities, and reduced project operation (limited or reduced scheduling) would probably need to be considered and implemented between September 15 and March 14 to avoid the least Bell's vireo breeding season.

AF010-28

Page 2-94: In Orange County, there are likely to be serious concerns with the alignment that follows Trabuco Creek. Based on LOSSAN planning documents for this area, the route presented will directly impact the unchannelized portion of Trabuco Creek. To build this alternative, the creek channel would require armament to protect the rail line from flood events in the Trabuco Creek Watershed. This would pose significant threats to the southern steelhead (*Oncorhynchus mykiss*) recently detected in Trabuco Creek. Therefore, alternatives that avoid this impact should be included and evaluated in the final EIR/EIS.

AF010-29

### Land Use Planning

The Modal Alternative discusses expansions at LAX and widening projects along I-5, I-10, I-15, I-215, and SR-163 that are likely to occur regardless of the construction of the HST project. Please discuss the relationship with HCP planning efforts (see General Comment 2) that are either already approved or will likely be approved prior to start of tiered level planning for constructing the HST in the final EIR/EIS. In particular, there are numerous wildlife corridors and linkages that are not addressed in the DPEIR/EIS (e.g., Carrol/Soledad Canyons identified in the western Riverside MSHCP, and Sandy Mush Road area in Merced County identified in the Recovery Plan for Upland Species of the San Joaquin Valley). Please explain the relationship of the various alternatives to completed and ongoing HCP planning efforts in the final EIR/EIS.

AF010-30

Please refer to and address the information contained on maps attached to these comments both in the final EIR/EIS and when making subsequent decisions on land use planning, project design elements and corridor locations (see attached Figures 1-3).

AF010-31

### Hydrology and Water Resources

This section does not sufficiently address potential impacts to estuarine functions and processes in the coastal lagoons in San Diego County. Current planning efforts with SANDAG, Caltrans and local resource agencies are evaluating other transportation projects along Pacific Coast Highway, I-5, and El Camino Real that could also impact these lagoons. Please discuss in the final EIR/EIS how double tracking along the LOSSAN corridor will be integrated with these other transportation projects to minimize individual and cumulative impacts on estuarine functions and processes.

AF010-32

Please refer to maps attached to these comments when evaluating hydrologic and water quality impacts from project design elements and corridor locations. (See attached Figures 1-3). Other hydrologic information relevant to this effort includes the National Wetland Inventory maps available at <http://www.NWFI.fws.gov>.

Figure 3.14-4: Please include the coastal lagoons in San Diego County as surface waters in the final EIR/EIS, as the discussion on page 3.14-4 correctly describes surface waters as including coastal estuaries and lagoons.

Figure 3.14-8: Erodible soils will be a significant issue for both the LOSSAN alignment and the inland route from Los Angeles to San Diego. This issue needs to be more clearly discussed in the final EIR/EIS because sediment accretion in the coastal waters is a major threat to State- and federally-listed species and those species covered under local HCPs.

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Page 3.14-8: Please add Los Penasquitos Lagoon to the list of surface waters. Project level design should avoid all impacts from locating the HST in flood plains. Please include in all alternatives the use of bridges that are adequately designed for crossing over all surface waters and tributaries to avoid or minimize potential impacts to hydraulic functions and processes as well as allow for migratory corridors and habitat linkages.

Page 3.14-9: The DPEIR/EIS appears inconsistent with regional transportation planning efforts in San Diego County. The No Project alternative includes widening projects that will be designed to improve surface water and floodplain constrictions that currently exist due to past construction practices. Please update the final EIR/EIS to include efforts currently being coordinated with transportation planners and resource agencies to alleviate problems created by past construction practices. For example, the Modal Alternative description in the DPEIR/EIS appears out of date with current plans. Please update the Modal Alternative to reflect recent changes in the planning process.

AF010-33

Page 3.14-18: While the tunneling under Camino Del Mar and opening up areas of the rail structure across Los Penasquitos Lagoon would potentially improve estuarine functions and processes, removing the rail from Los Penasquitos by tunneling under I-5 would avoid impacts to the lagoon and significantly improve Los Penasquitos Lagoon hydrologically, as wildlife habitat, and for visual aesthetics. Similarly, running the rail line south of and along the existing road along the south side of San Dieguito Lagoon would result in limited lagoon impacts.

AF010-34

### Biological Resources and Wetlands

Please include an analysis in the final EIR/EIS of impacts to biological resources and wetlands including, but not limited to, indirect effects from increased speed and frequency of trains along all of the corridors. As trains become faster and more

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## Comment Letter AF010 Continued

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frequent, the probability of striking wildlife inhabiting these areas increases. Both the HST and the double tracking of the LOSSAN corridor would have significant impacts on wildlife from increased train traffic and speed. Though the train corridor would be fenced in areas where the train travels at grade, fences do not ensure that wildlife will not gain access to fenced rights-of-way. Fences often contribute to mortality by trapping animals that manage to circumvent the fence. Additionally, fencing will not keep smaller amphibians, reptiles and mammals from accessing the rail right-of-way. Larger animals will be able to access the right-of-way by circumventing the ends of the fence and by exploiting areas where the integrity of the fence has been compromised. We recommend that consideration be given to the use of tunnels or elevated track in important wildlife habitat and migration areas to reduce potentially significant mortality impacts as well as to maintain habitat connectivity.

Please refer to maps (Figures 1-3) to these comments both in the final EIR/EIS and when making subsequent decisions on project alternatives, design elements and potential corridor locations. Other relevant information to evaluate project impacts on wetlands includes the National Wetland Inventory maps available at <http://www.NWFI.fws.gov>.

**Figure 3.15-1:** This figure inadequately outlines areas of San Joaquin kit fox habitat. The figure does not identify important population linkage areas that connect core and satellite San Joaquin kit fox populations. Please refer to Figures 1 and 2 which identify these areas within the San Joaquin Valley. Populations of San Joaquin kit fox lying outside of the San Joaquin Valley (i.e., San Benito County) not shown in these figures, should also be included. Documented sightings of San Joaquin kit fox are also shown on these figures.

**Figure 3.15-3A:** See above comments for Figure 3.15-1.

**Page 3.15-6:** Please address impacts to the San Francisco Bay National Wildlife Refuge (SFBNWR) in the final EIR/EIS. For example, impacts along the Mulford alignment could substantially hinder the attainment of recovery objectives for the California clapper rail (*Rallus longirostrisobsoletus*) and the salt marsh harvest mouse (*Reithrodontomys raviventris*). Additionally, other federally listed species such as the western snowy plover (*Charadrius alexandrinus nivosus*), and Contra Costa goldfields (*Lasthenia conjugens*), and vernal pool species have the potential to be impacted by the proposed Mulford alignment.

**Page 3.15-7:** There are significant natural resource concerns related to the proposed Northern Mountain crossings. The Diablo Range alignments would result in substantial direct and indirect impacts to federally listed wildlife species in the region, including the endangered San Joaquin kit fox, the threatened California red-legged frog, the threatened bay checkerspot butterfly, and the threatened California tiger salamander, as well as various threatened and endangered plant species. The HST corridor (as well as

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any access roads needed for construction/ operations/ maintenance) would result in fragmented wildlife habitat, noise impacts to wildlife, direct and indirect loss of habitat, hydrologic changes that may negatively impact wildlife/plant species, increased risk of colonization by invasive plant species, and disruption of seasonal and daily wildlife movements. Noise associated with the HST may cause many species of wildlife (including the San Joaquin kit fox) to avoid a substantial area of otherwise suitable habitat near the rail line, resulting in habitat loss above and beyond the actual project footprint.

**Page 3.15-12:** The DPEIR/EIS is missing important information on significant biological resources along the Los Angeles to San Diego Inland Empire corridor. For example, there are numerous areas of natural vegetation (particularly south of Temecula) and wildlife corridors and linkages that occur along this proposed corridor. Please coordinate any planning efforts for HST along this route with the western Riverside MSHCP and the North San Diego County MHCP.

**Page 3.15-14:** The Carroll Canyon area is an important feature in the San Diego County regional conservation strategy. Please consider and include an alternative to placing a new HST corridor along or through this important wildlife corridor/linkage in the final EIR/EIS.

**Page 3.15-14:** The Conservation Plans discussion is lacking important information. Please ensure that the proposed HST will be consistent with the existing and proposed HCPs (see General Comment 2).

**Page 3.15-15:** The information provided in the DPEIR/EIS regarding critical habitat is mostly incorrect. Arroyo toad critical habitat was designated in 2001 (66 FR 9414, 66 FR 13656), but has since been vacated until a new final rule is issued. Quino checkerspot critical habitat was designated on April 15, 2002 (67 FR 18356). Riverside fairy shrimp critical habitat was designated on May 30, 2001 (66 FR 29384), but was remanded and vacated until a new final rule is issued. San Bernardino kangaroo rat critical habitat was designated on April 23, 2002 (67 FR 19812). San Diego fairy shrimp critical habitat was designated on October 23, 2001 (65 FR 63438), and was remanded but not vacated until a new final rule is issued. Southwestern willow flycatcher critical habitat was designated on July 22, 1997 (62 FR 39129), and was set aside until a new final rule is issued. Tidewater goby critical habitat was designated on June 28, 2000 (65 FR 39850), and was remanded and partially vacated for Agua Hedionda Lagoon (Unit 10) until a new final rule is issued.

**Page 3.15-16:** Federally listed species that may occur along the LOSSAN corridor and not addressed in the DPEIR/EIS include San Diego ambrosia (*Ambrosia pumila*), San Diego mesa mint (*Pogogyne abramsii*), and thread leaved brodiaea (*Brodiaea filifolia*). In addition, there are a number of species and habitat types not mentioned that occur

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**Comment Letter AF010 Continued**


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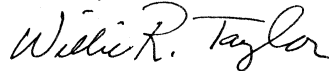
along various portions of the proposed alignments that are State listed species and/or species covered under HCPs (e.g., Belding's savannah sparrow).

Page 3.15-28: There are a number of wildlife corridors and linkages that are described in regional conservation planning documents that are not included in this document including Temecula Creek, Trabuco Creek and Carroll Canyon. Please include all of the wildlife corridors and linkages designated in local and regional conservation planning efforts in the final EIR/EIS.

Page 3.15-31: The Environmental Consequences and Mitigation Strategies should include all of the wetland impacts and mitigation measures across the coastal lagoons in San Diego County that will result from double tracking the LOSSAN corridor. Current planning efforts along the LOSSAN corridor include removing areas of existing fill and running extended causeways to offset new impacts associated with new fill for double tracking. There will be improvements in the lagoons when existing bridges and their wooden pilings are replaced with single span concrete piling structures. In addition, these new bridges would not require clearing and maintenance activities currently necessary to protect existing wooden piling structures from fire.

We appreciate the opportunity to provide these comments and apologize for the lateness of them.

Sincerely,



Willie R. Taylor  
Director, Office of Environmental Policy  
and Compliance

Attachments: Appendices 1 and 2  
[Figures 1, 2 and 3 are oversized maps sent under separate cover to FRA only]

cc:  
California High-Speed Rail Authority  
EIR/EIS Comments  
925 L Street, Suite 1425  
Sacramento, California 95814

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**Appendix 1**

The U.S. Fish and Wildlife Service's (FWS) Mitigation Policy of January 23, 1981, as issued in the Federal Register Vol. 46(15): 7656-7663, outlines how the agency will work with partners to help mitigate any adverse impacts from land and water development projects on fish, wildlife, and their habitats. Its purpose is to help assure consistent and effective recommendations by outlining policy for the levels of mitigation needed, as well as the various methods for accomplishing the mitigation. In addition, it allows Federal action agencies and private developers to anticipate FWS recommendations and plan for mitigation measures early, thus avoiding delays late in the planning process. The policy is meant to provide guidance for FWS personnel; variations appropriate to individual circumstances are expected and permitted.

The FWS reviews a variety of criteria to outline mitigation recommendations and determine the agency's position on a specific project or proposal. The criteria are not mutually exclusive, and are meant to provide a framework for the FWS to fulfill its technical assistance role to partner Federal action agencies and the public. The action agencies are then charged with making the final decision to approve the proposal and require some level of mitigation, if appropriate. In this process, the FWS considers whether:

- (1) Proposals are ecologically sound;
- (2) The least environmentally damaging reasonable alternative is selected;
- (3) Every reasonable effort is made to avoid or minimize damage or loss of fish and wildlife resources and uses;
- (4) All important recommended means and measures have been adopted with guaranteed implementation to satisfactorily compensate for unavoidable damage or loss consistent with the appropriate mitigation goal; and
- (5) For wetlands and shallow water habitats, the proposed activity is clearly water dependent and there is a demonstrated public need.

In addition, Council on Environmental Quality regulations for implementing the National Environmental Policy Act define mitigation to include: (1) avoiding the impact; (2) minimizing the impact; (3) rectifying the impact; (4) reducing or eliminating the impact over time; and (5) compensating for impacts. The FWS supports and adopts this definition and considers the specific elements to represent the desirable sequence of steps in the mitigation planning process. The FWS strives to help achieve the goal of no net loss of wetland habitats.

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**Comment Letter AF010 Continued**

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**Appendix 2**

## Additional information concerning Grasslands Ecological Area (Grasslands)

The Grasslands is a critical area for Pacific Flyway waterfowl populations, providing wintering habitat for 20 percent of the total population. Waterfowl populations wintering in the Grasslands average a half-million, with peak waterfowl numbers at one million. Several federally listed or proposed threatened and endangered species are known to occur either seasonally or year-round. As one of the largest remaining vernal pool complexes, Grasslands is home to many rare species associated with this disappearing habitat. San Joaquin kit fox (*Vulpes macrotis mutica*), Aleutian Canada geese (*Branta canadensis leucopareia*), Swainson's hawks (*Buteo swainsoni*), and tri-colored blackbirds (*Agelaius tricolor*) are also dependent upon the area. Less than five percent of the original four million acres of Central Valley wetlands remain. In recognition of the rich and critically important natural resources of the Grasslands, the conservation agencies have focused more attention and funding on this area than most areas of the State. There is a significant level of investment in maintaining the area's natural heritage, including two FWS national wildlife areas encompassing approximately 35,000 acres, a FWS conservation easement program that encompasses 70,000 acres on 170 separate private properties, six units of the California Department of Fish and Game wildlife areas encompassing approximately 25,000 acres, a California Department of Parks and Recreation state park, and an extremely active Natural Resources Conservation Service program. This area has garnered numerous habitat restoration and enhancement grants totaling millions of dollars, and is one of the most active areas statewide for conservation group involvement.

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**Response to Comments of Willie Taylor, Director, Office of Environmental Policy and Compliance, U.S. Department of the Interior, November 22, 2004 (Letter AF010)**

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**AF010-1**

The Co-lead Agencies respectfully disagree that the Program EIR/EIS presents little difference between the alternatives. The Program EIR/EIS reliably assesses the potential for environmental impact from each of the alternatives at an appropriate level of detail. Please see Standard Response 3.15.13

**AF010-2**

The Modal Alternative is a hypothetical set of infrastructure improvements to the existing state transportation system (e.g. additional highway lanes and additional airport runway construction) to accommodate the forecast intercity travel demand. The improvements that are part of the Modal Alternative are not currently programmed and are not necessarily identified in other planning documents. It is beyond the scope of this review and would be speculative and impractical to account for all site-specific highway and airport improvements that are being planned by other entities, but were not programmed and funded when the Program EIR/EIS analysis was done. Please see response O024-28. Subsequent project level analyses will incorporate the current status of such projects.

**AF010-3**

Acknowledged. Additional information is provided in Section 3.15 of the Final Program EIR/EIS regarding habitat conservation plans. Please see Standard Response 3.15.10.

**AF010-4**

Evaluation of potential impacts to designated critical habitat for federally listed species was considered in the analysis through use of CNDDB GIS data. The results of the analysis are presented in

Section 3.15. Please see Standard Response 3.17.1 and responses O034-8, 9

**AF010-5**

The FRA would initiate Section 7 consultation to satisfy the requirements of the Endangered Species Act when and if the proposed HST System is advanced to project level environmental review and Section 404 permitting activities commence. Preparation of a Biological Assessment for the program study area (much of the state of California) would be impractical given the geographic extent of the alternatives and the number of habitats. For this Program EIR/EIS, potentially affected biological resources were identified using CNDDB GIS data and representative impacts to listed species habitat areas were estimated to inform a comparison of system alternatives and HST alignment and station options. This information has been made available to the DOI, FWS, USACE and EPA through the program environmental process.

Upon project level initiation of Section 7 consultation, for project study areas the FRA and the Authority would in principle accomplish the steps identified by DOI by: 1) identifying the conservation needs of each listed species with the potential to be impacted by the proposal; 2) identifying the threats to each listed species' conservation related to the proposed action; 3) identifying species conservation or management units and the threats affecting those units; 4) identifying species' conservation goals framed within the context of the HST program; and 5) developing conservation/management unit strategies. The FRA and the Authority would prepare Biological Assessments to address the affected conservation/management units identified during the second-tier, project-level environmental reviews, when more specific data will be available for HST design parameters and HST alignment options.

**AF010-6**

Agreed. After conclusion of the Program EIR/EIS, project-level environmental review would incorporate Section 404 permitting activities. The criteria for dredge and fill activities provided by the FWS have been incorporated in Section 3.14 of the Final Program EIR/EIS.

**AF010-7**

Please see Section 3.15 of the Final Program EIR/EIS and response AL072-9.

**AF010-8**

The Co-lead Agencies believe that the Program EIR/EIS fully addresses potential growth impacts at an appropriate level of detail in Chapter 5. Also please see Section 3.17 of the Final Program EIR/EIS.

**AF010-9**

Please see Chapter 5. A primary conclusion of the growth inducement analysis is that a considerable amount of growth will be occurring in the "outlying" areas of California with the No Project Alternative. Please also see standard response 5.2.5.

**AF010-10**

Please see response AF010-2 above and Section 2.4.2 and Section 2.5.2 of the Final Program EIR/EIS. Please also see standard response 3.17.1.

**AF010-11 and 12**

While these comments were made on the summary, Chapter 5 of the Program EIR/EIS provides a more complete description of potential effects of the system alternatives and HST alignment options on growth and urban development. Please see Standard Responses 5.2.1, 5.2.2, 5.2.5, and 5.2.6. Please also see standard response 6.23.1 and standard response 2.1.12.

**AF010-13**

The analysis described in Chapter 5 does address the Modal Alternative. It is unlikely that both the Modal and HST Alternatives would be needed and implemented. Please see Chapter 5 and Section 3.17 of the Final Program EIR/EIS.

**AF010-14**

As stated on page 1-6 of the Draft Program EIR/EIS, "...federal, state, and regional transportation plans forecast recovery from this reduction and continued growth in air travel over the next 20 years." The statement, "to the present" has been deleted from Section 1.2.2A of the Final Program EIR/EIS.

**AF010-15**

The PEIR/EIS and the ridership forecasts which are referenced in the PEIR/EIS did not assume any improvements to local mass transit beyond those improvements included in the No Project Alternative. Travelers would access HST stations using existing and planned local and regional transit, by automobile, shuttle services, and some would walk. Potential HST station sites have been selected primarily at existing transportation hubs. Please see standard response 2.1.12.

**AF010-16**

Please see Standard Response 3.17.1 and response AF010-2 above. Please also see footnote on Page 1-7 of Final Program EIR/EIS and the discussion of LAX in Chapter 6A.

**AF010-17**

A lower level of rail improvement would not meet the purpose and need. Lower speed rail technologies were considered and rejected in section 2.6.6 of the Program EIR/EIS. Air and highway travel would continue to play a major role as described for the No Project Alternative. The Modal Alternative is not planned and programmed, but represents an alternative program to the HST Alternative. Please see Standard Response 2.9.1 and response AS004-8

**AF010-18**

Acknowledged.

**AF010-19**

The Modal Alternative is a hypothetical set of infrastructure improvements to the existing state transportation system (e.g. additional highway lanes and additional airport runway construction) to accommodate the forecast intercity travel demand. The improvements that are part of the Modal Alternative are not currently programmed and are not necessarily identified in other planning documents. The data in these tables lists improvements that are part of the Modal Alternative, not other planning efforts that are looking at individual facilities and a variety of travel needs. It would be speculative to incorporate project plans being made by others that are not programmed and funded. Please see Standard Response 2.2.1.

**AF010-20**

The text in section 2.6.2. of the Draft Program EIR/EIS says 86 trains per day in each direction.

**AF010-21**

Please see Standard Response 2.18.1.

**AF010-22**

Acknowledged. The Final Program EIR/EIS notes the lagoons as "habitat to resident avian species protected under state and federal law."

**AF010-23**

Please see section 3.15 Biological resources and Wetlands for discussion of threatened and endangered species.

**AF010-24**

Acknowledged. The Hayward/I-880 alignment option has been identified as preferred between Oakland and San Jose.

**AF010-25**

Please see Standard Response 6.3.1.

**AF010-26**

Additional information has been added to Section 3.15 of the Final Program EIR/EIS regarding habitat conservation plans and wildlife movement corridors. Potential impacts to specific species and habitats will be addressed in subsequent project level environmental review when the proposed facilities and alignments are more precisely defined.

**AF010-27**

Acknowledged. Carroll Canyon's status as a San Diego MSCP preserve is noted in chapter 6A in the Final Program EIR/EIS. Both the Carroll Canyon and Miramar Road alignment options are identified as preferred for further study in project level environmental review. Please see response AF008-17.

**AF010-28**

The Qualcomm alignment option is not preferred for further study at the project-level.

**AF010-29**

Please see Standard Response 6.41.1

**AF010-30**

Regarding consideration of habitat conservation plans please see Standard Response 3.15.10. Regarding wildlife corridors please see Standard Responses 3.15-2 and 3.15.9, responses AS04-51 and AS012-19 and Section 3.15.2 of the Program EIR/EIS.

**AF010-31**

Acknowledged.

**AF010-32**

Please see Standard Response 6.41.1.

**AF010-33**

The Modal Alternative is a hypothetical set of infrastructure improvements to the existing state transportation system (e.g. additional highway lanes and additional airport runway construction) to accommodate the forecast intercity travel demand. The improvements that are part of the Modal Alternative are not currently programmed and are not necessarily identified in other planning documents.

**AF010-34**

Please see Standard Response 6.41.1.

**AF010-35**

The potential for the HST Alternative to result in increased mortality of listed species will depend upon field studies and incorporation of avoidance and minimization measures at the project level. Wildlife crossings would be incorporated where necessary to supplement wildlife movement already accommodated by grade-separated sections of the HST system. Please see Sections 3.15.5-6 of the Final Program EIR/EIS regarding design practices and mitigation strategies to address potential impacts to biological resources and protected species.

**AF010-36**

Additional GIS data regarding San Joaquin Kit Fox habitat was provided by the FWS and incorporated in the Final Program EIR/EIS.

**AF010-37**

The Hayward/I-880 alignment option has been identified as preferred between Oakland and San Jose. Please also see Standard Response 2.18.1.

**AF010-38**

See Response AF010-26 above.

**AF010-39**

Acknowledged. Carroll Canyon's status as a San Diego MSCP preserve is noted in chapter 6A in the Final Program EIR/EIS. Both the Carroll Canyon and Miramar Road alignment options are identified as preferred for further study in project level environmental review.

**AF010-40**

Please see Standard Response 3.15.10.

**AF010-41**

The information presented in the Final Program EIR/EIS is based on the California Natural Diversity Database (2003). The specific species raised in your comments will be considered and further addressed during subsequent project level environmental review.

**AF010-42**

Please see Standard Response 6.41.1.

**AF010-43**

Please see Standard Response 3.15.10. Please also see Figures 3.15-1A and 3.15-1B in the Final Program EIR/EIS.

**AF010-44**

Please see Standard Response 6.41.1.